
Prepared by & Return to: Lawrence I. James, Jr., Hogan Law Office, 3101 Ingersoll Ave., Suite 102, Des Moines, IA 50312 (515) 279-9059

**DECLARATION OF RESIDENTIAL COVENANTS, CONDITIONS
AND RESTRICTIONS**

THIS DECLARATION is made this 12 day of December, 2012 by **PERFECT ACRES, L.L.C.**, an Iowa limited liability company (the "Declarant").

WHEREAS, Declarant is the owner of certain real property legally described as follows:

Lots 1 - 25 in FOX CREEK ESTATES PLAT 3, an Official Plat, now included in and forming a part of the City of Waukee, Dallas County, Iowa.

WHEREAS, Declarant is desirous of protecting the value and desirability of the Plat.

NOW, THEREFORE, Declarant hereby declares that all property within the Plat shall be held, sold and conveyed and be subject to the following restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of the Plat and shall run with the land and shall be binding on all parties having any right, title or interest therein or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

I. DEFINITIONS.

For the purpose of this Declaration, the following terms shall have the following definitions, except as otherwise specifically provided:

- A. "Plat" shall mean and refer to the real property described as Lots 1 - 25 in FOX CREEK ESTATES PLAT 3, an Official Plat, now included in and forming a part of the City of Waukee, Dallas County, Iowa.
- B. "Declarant" shall mean and refer to Perfect Acres, L.L.C., an Iowa limited liability company, its successors or assigns.
- C. "Lot" shall mean and refer to an individual parcel of land within the Plat upon which a dwelling may be constructed.
- D. "Building Lot" shall mean and refer to one or more Lots, or one or more Lots and the portion or portions of adjacent platted Lots in the Plat, used for the construction of one dwelling as herein permitted.

- E. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the legal or equitable title to any Lot or Building Lot that is a part of the Plat.
- F. "Outbuilding" shall mean an enclosed, covered structure (other than a dwelling or the attached garage), such as a tool shed or garden house.
- G. "City" shall mean the city of Waukee, Iowa.

II. DESIGNATION OF USE.

All Lots shall be known and described as residential lots and shall not be improved, used or occupied for other than private residential purposes. No full-time or part-time business activity may be conducted on any Lot or in any dwelling or structure constructed or maintained on any Lot except those activities permitted under the terms of the zoning ordinance of the City.

III. BUILDING TYPES.

- A. No building or structure shall be constructed, altered, or maintained on any Building Lot other than a detached single family dwelling with an attached private garage.
- B. No building or structure of any kind shall be moved onto any Lot.
- C. The construction of any building or structure on any Building Lot shall be performed utilizing then acceptable construction methods and procedures, including (but not limited to) on-site "stick-built" construction and/or off-site modular or panelized construction.

IV. BUILDING AREA DESIGN AND CONSTRUCTION.

No dwelling shall be constructed or permitted to remain upon any Lot unless the design and location is in reasonable harmony with existing structures and unless it meets the following requirements:

- A. One and one-half story, two story, split-level, and split foyer dwellings must have a finished area of not less than 1,700 square feet; ranch or one story dwellings must have a finished area of not less than 1,450 square feet.
- B. In computing total finished area, the same shall not include any finished area that has its floor below the exterior grade.
- C. In the computation of floor area, the same shall not include any porches, breezeways, or attached or built-in garages.
- D. All exterior painted portions of any dwelling, garage or Outbuilding located on any Lot shall be finished with one of the colors designated in writing by Declarant as being acceptable exterior color. All exterior painted portions of dwellings that are repainted shall be repainted in one of such colors.
- E. All roof material shall be CertainTeed brand in earth tone colors or shingle of equal color, quality and appearance thereto.
- F. All buildings, structures or improvements of any kind must be completed within twelve (12) months of the commencement date of construction.

V. GARAGES AND DRIVEWAYS.

All dwellings shall have a minimum of a two-car attached garage. All dwellings shall have a portland cement concrete driveway not less than 16 feet in width and running from the city street to the garage.

VI. TEMPORARY AND OTHER STRUCTURES; CERTAIN USES.

No temporary building or structure shall be built or maintained on any Lot. No camper, motor home, watercraft, trailer, unfinished dwelling basement, tent, shack, garage, or Outbuilding shall be used at any time as a dwelling. No vehicle with a gross vehicle weight greater than 7,000 pounds, and no camper, motor home, watercraft, trailer, or mechanical equipment may be parked or maintained on any Lot (except inside a garage) or on the public street, other than on a temporary basis; provided that this restriction shall not apply to trucks, equipment or trailers used in connection with construction of or rebuilding of a dwelling on any Lot. Temporary shall mean no more than a total of thirty (30) days per year. At no time may any vehicle, trailer or camper be parked or maintained in the yard of any Lot. At no time shall a vehicle or any mobile equipment be disassembled, repaired or serviced on any Lot, except inside a garage or dwelling.

VII. FENCES.

No fences or other structures may be built or maintained within the front building setback areas as shown on the Plat as recorded and no fences shall be built or maintained in front of the front line of the residential dwelling extended to the side Lot lines. The fence fabric or fence screening material shall be mounted on the exterior face of the fence posts or fence framing. No chain link fence, including chain link fence around a dog run, shall be permitted unless it is a black vinyl clad fence. All fences shall be kept in good repair and attractive appearance.

VIII. SODDING OR SEEDING.

Within ninety (90) days of completion of a dwelling upon a Lot, all portions of the Lot shall be fully seeded or sodded. If weather conditions make this requirement impossible to meet, Declarant shall establish a reasonable period of time for compliance.

IX. EASEMENTS.

Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the Plat as recorded. The Owner and/or occupant of each Lot, jointly and severally, shall at the expense of such Owner and/or occupant, maintain, keep, and preserve that portion of the easement within the Lot at all times in good repair and condition and shall neither erect nor permit erection of any building, structure or other improvement of any kind within the easement areas (except customary ground cover) which might interfere in any way with the use, maintenance, replacement, inspection or patrolling of any of the utility services and drainage facilities within such easements areas. Any berm and/or swale constructed for drainage purposes shall be preserved and maintained to accomplish the purposes for which it was constructed.

X. NUISANCES.

No noxious or offensive activity or odors shall be permitted on or to escape from any Lot, nor shall anything be done thereon which is or may become an annoyance or a nuisance, either temporarily or permanently.

XI. EROSION CONTROL AND STORM WATER DISCHARGE PERMITTING REQUIREMENTS.

The Owner and/or occupant of each Lot, jointly and severally, whether vacant or improved, their agents, assigns, heirs and/or building contractors, shall take all necessary precautions to prevent, stabilize and control erosion within its Lot to prevent sediment migration and soil erosion from extending beyond the boundaries of the Lot. In the event of any occurrence of soil erosion, the Owner and/or occupant of the Lot shall, jointly and severally, promptly clean up all eroded sediment and restore all affected areas to their original condition.

Any construction or earth moving on any Lot shall be in compliance with all laws relating to storm water discharge permitting. The Owner shall be solely responsible for the Lot with respect to compliance with all terms, provisions and requirements of any NPDES Storm Water Discharge Permit No. 2 and any storm water pollution prevention plan which includes the Lot.

During the ownership of the Lot, Owner shall protect, defend, indemnify and hold the Declarant and other Owners harmless from any and all damages, claims, liabilities, fines, penalties, cleanup costs and/or attorneys and consultant fees caused by, or in any manner related to (i) any discharges of soil, silt, sediment, petroleum product, hazardous substances or solid waste from the Lot and/or (ii) any alleged violation of any NPDES or storm water discharge rule or regulation.

XII. SIGNS.

No sign of any kind shall be placed, exposed to view or permitted to remain on any Lot or any street adjacent thereto, except (i) street markers, traffic signs, or any signs installed by the City by other governmental entities or by the Declarant, (ii) signs which have been approved by Declarant in writing not exceeding 144 square inches in area on which there shall only be exhibited the street number and/or the name of the resident, (iii) a customary sign (one per Building Lot) advertising a Building Lot or dwelling for sale, not exceeding 1,296 square inches, and (iv) signs which have been approved by Declarant in writing advertising the builder or for promotional or marketing purposes. In the event that any signs other than those described above shall be placed or exposed to view on any Lot, the agents of the Declarant are hereby given the right to enter upon such Lot and remove such signs.

Declarant reserves the right to install entrance and directional signs with respect to the Plat, at locations and of design determined by the Declarant in a manner consistent with the ordinances of the City.

XIII. TRASH RECEPTACLES.

No trash receptacles or garbage cans shall be permitted to be placed on a Lot outside a dwelling, garage or Outbuilding unless hidden by an attractive screen of suitable height, or unless sunken to ground level in a hole lined with permanent cribbing. However, unscreened trash in proper containers and/or bags shall be allowed to be placed on a Lot outside a dwelling, garage or Outbuilding no earlier than twelve (12) hours prior to a scheduled pick up of such trash. Such unscreened trash containers must be returned to the screened area or underground location, or inside a dwelling, garage or Outbuilding, within twelve (12) hours following the scheduled pick up of such trash.

XIV. UTILITIES.

All utility connection facilities and services shall be underground.

XV. TOWERS AND ANTENNAS.

No exterior transmission tower, antenna or television transmission dish of any kind shall be constructed, installed, modified, or permitted on the ground, on dwellings, on garages or on Outbuildings. Notwithstanding the foregoing, an exterior tower, antenna or receiver dish which is twenty-four (24) inches or less in diameter shall be permitted. No more than one (1) such exterior tower, antenna or receiver dish shall be permitted on each Lot. No more than one (1) penetration in the dwelling shall be permitted for the cable from such exterior tower, antenna or receiver dish. No other exterior towers or antenna shall be constructed, installed, modified or permitted on the ground, on dwellings, on garages or on Outbuildings.

XVI. MAINTENANCE.

The Owner and/or occupant of each Lot shall jointly and severally be responsible to keep the same free of trash, weeds and debris and to keep the lawn and landscaping well maintained and healthy, including (but not limited to) maintaining the lawn at a height not to exceed six (6) inches. The Owner and/or occupant of each Lot shall jointly and severally be responsible to maintain the exterior of any dwelling, the driveway, fence, screening and all other improvements.

XVII. CERTAIN ANIMALS PROHIBITED.

No animals, livestock, pigs, snakes or poultry of any kind shall be raised, bred or kept on any Lot except that dogs, cats and other common household pets may be kept so long as they are not kept, bred or maintained for commercial purposes. In no event, however, shall more than a total of two (2) dogs and/or cats be kept at any one Building Lot at any one time. Dogs must be either kept in the dwelling or in a shelter aesthetically compatible with the dwelling and surrounding areas, and dog runs, if any, must be located at the rear of the house or garage and extend toward the rear of the Lot from that portion of the house or garage which is closest to the rear Lot line. All pets must be leashed and under the control of its owner if not tied up or kept within a fenced yard or dog run.

XVIII. ACCESSORY STRUCTURES.

Each Building Lot may have no more than one (1) customary and traditional accessory structure such as a tool shed, garden house, in-ground swimming pool, tennis court and the like. Any trash receptacle, or tool shed, garden house or other Outbuilding of like nature, shall be properly screened by a privacy fence and/or shrubbery. No above-ground or non-permanent swimming pools shall be permitted on any Lot. Swimming pools, tennis courts, Outbuildings and other accessory structures and improvements, including dog kennels and runs, shall not extend farther than the front line of the residential dwelling extended to the side lot lines and shall not be located within 20 feet of any side or rear Lot line, as the minimum distance established by the zoning ordinance of the City or the minimum distance as established in the Plat as recorded, whichever is the more restrictive.

XIX. SURFACE WATER.

The topography of the Plat is such that surface water may flow from certain Building Lots onto other Building Lots. In regard to all matters concerning surface water, each Building Lot shall be subject to and benefited by such easements as may exist from the flowage of surface water under the laws of the State of Iowa, as may be in effect from time to time; and all Owners shall have such rights and obligations with respect thereto as may be provided by such laws.

XX. MAILBOXES.

The Declarant may, at its discretion, install neighborhood mailbox cluster units according to United States Postal Service regulations. The Owner and/or occupant of the Lot(s) on which a mailbox cluster unit is located shall be responsible for removal of snow and ice which would obstruct access to the mailbox cluster units by the mail carrier and other Owners.

Any mailbox required to be placed by an individual Owner shall be installed and maintained by the Owner according to United States Postal Service regulations.

XXI. SECURITY LIGHTING.

Security or decorative lighting for driveways, parking and other areas shall be designed, located and directed in a manner which will avoid direct lighting onto adjoining Lots.

XXII. ENFORCEMENT OF COVENANTS.

This Declaration shall be deemed to run with the land, and the Declarant or the Owner of any Lot may bring an action in any court of competent jurisdiction to enforce this Declaration to enjoin its violation or for damages for the breach thereof, or for any other remedy or combination of remedies recognized at law or in equity, and shall further be entitled to recover reasonable legal fees and costs if the Declarant or Owner prevails in any such action.

XXIII. AMENDMENTS OF COVENANTS.

This Declaration may be amended from time to time with the approval of the Owners. Such approval shall be given by the affirmative vote of not less than two-thirds (2/3) of the Owners. The Owner of each Lot (or the joint Owners of a single Lot in the aggregate) shall be entitled to cast one vote on account of each Lot owned. Provided, however, until the Declarant, or its assignee, has sold all of the Lots, it may make amendments or modifications to this Declaration without the consent of any other Owners or other party. Such amendments or modifications by the Declarant shall be effective the date the amendment or modification has been filed with the Recorder.

XXIV. PERIOD OF COVENANTS.

This Declaration shall continue and remain in full force and effect at all times as to the Plat and as to the Owners of any Lot, regardless of how title was acquired, until the date twenty-one (21) years after the recording of this Declaration, on which date this Declaration shall automatically be extended for two (2) successive periods of five (5) years each, unless on or before the end of the base period, or the first extension period, the Owners of not less than fifty percent (50%) of the Lots, by written instrument duly recorded, declare a termination of the same.

XXV. ENFORCEMENT AND WAIVER.

- A. In the event that any one or more of the foregoing covenants, conditions or restrictions shall be declared for any reason by a court of competent jurisdiction to be null and void, such judgment or decree shall not in any manner whatsoever affect, modify, change, abrogate, or nullify any of the covenants, conditions and restrictions not so expressly held to be void, which shall continue unimpaired and in full force and effect.
- B. The Plat shall also be subject to any and all rights and privileges of the City, now held or hereafter acquired, by dedication or conveyance, or by reason of the platting and

recording of the Plat, or by this Declaration or by law. Wherever there is a conflict between this Declaration and the zoning ordinance of the City, the more restrictive shall be binding.

- C. This Declaration shall not be applicable to property dedicated to the City, and the City may allow appropriate public use on city-owned property within the Plat.

IN WITNESS WHEREOF, this Declaration of Residential Covenants, Conditions and Restrictions, was made the date first written above by the Declarant.

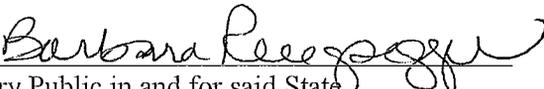
PERFECT ACRES, L.L.C.,
an Iowa limited liability company

By: 
William B. Elson, Manager

STATE OF IOWA, COUNTY OF POLK:

This instrument was acknowledged before me on 12/12, 2012, by William B. Elson, Manager of Perfect Acres, L.L.C.



By: 
Notary Public in and for said State

Prepared by & Return to: Lawrence I. James, Jr., Hogan Law Office, 3101 Ingersoll Ave., Des Moines, IA
50312 (515) 279-9059

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR FOX CREEK ESTATES**

THIS DECLARATION (the "Declaration") is made this 21st day of February, 2013 by **PERFECT ACRES, LLC**, an Iowa limited liability company ("Declarant").

WHEREAS, Declarant is the owner of certain real property legally described as follows:

Lots 1 - 25 in FOX CREEK ESTATES PLAT 3, an Official Plat, now included in and forming a part of Waukee, Dallas County, Iowa (the "Property").

AND

SEE EXHIBIT "A" ATTACHED HERETO (the "Common Area").

WHEREAS, Declarant is owner of that portion of the following described real estate generally located south of future Douglas Parkway (the "Benefited Property"):

The Southwest Quarter of the Northwest Quarter (SW 1/4 NW 1/4) and the Southeast Quarter of the Northwest Quarter (SE 1/4 NW 1/4) and the Northeast Quarter of the Northwest Quarter (NE 1/4 NW 1/4) of Section 27, Township 79 North, Range 26 West of the 5th P.M., City of Waukee, Dallas County, Iowa, EXCEPT Fox Creek Estates Plat 1, Fox Creek Estates Plat 2, and Fox Creek Estates Plat 3, being Official Plats in Waukee, Dallas County, Iowa.

WHEREAS, Declarant has entered into a Storm Water Management Facility Maintenance Covenant and Permanent Easement Agreement for Fox Creek Estates dated February 21, 2013 with the City of Waukee, Iowa (the "Management Facility Agreement"), wherein Declarant has agreed to control storm water runoff for the Property and the Benefited Property through design, construction and maintenance of a storm water detention basin (the "Storm Water Management Facility") within the Common Area.

WHEREAS, Declarant desires to provide for an Association to own, operate and maintain the Common Area and Storm Water Management Facility located thereon and to establish covenants and conditions for the benefit of the owners of the Property entitled to use the Storm Water Management Facility.

NOW, THEREFORE, Declarant hereby declares that the Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which shall run with the real property and be binding on all parties having any rights, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I
DEFINITIONS

Section 1. "Additional Land" shall mean and refer to any portion of the Benefited Property annexed and subjected to this Declaration pursuant to Article XVI hereof.

Section 2. "Association" shall mean and refer to the Fox Creek Estates Storm Water Maintenance Association, its successors and assigns, a non-profit corporation organized pursuant to Chapter 504 of the Code of Iowa, 2013.

Section 3. "Board of Directors" shall mean and refer to the Board of Directors of the Association.

Section 4. "City" shall mean and refer to the city of Waukee, Iowa.

Section 5. "Common Area" shall have the meaning set forth on Page 1 and refer to any real property to which the Association holds title, together with any improvements thereon, for the common use and benefit of the Owners.

Section 6. "Declarant" shall mean and refer to Perfect Acres, LLC, an Iowa limited liability company, its successors or assigns.

Section 7. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions for Fox Creek Estates to which the Property is subject.

Section 8. "Lot" shall mean and refer to an individual parcel of land within the Property or within a Plat of Survey.

Section 9. "Member" shall mean and refer to those persons entitled to membership in the Association as provided in this Declaration.

Section 10. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the legal or equitable title to any Lot that is a part of the Property.

Section 11. "Property" shall have the meaning set forth on Page 1 and shall include any Additional Land when annexed and subjected to this Declaration pursuant to Article XVI hereof.

Section 12. "Storm Water Management Facility" shall have the meaning set forth on Page 1 and refer to the common storm water detention pond and all pipes, inlets and outlets appurtenant thereto.

ARTICLE II
MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Every Owner shall be a Member of the Association. Membership shall be

appurtenant to and may not be separated from ownership of any Lot that is subject to assessment hereunder. Ownership of a Lot shall be the sole qualification for membership. When more than one person holds an interest in any Lot, all such persons shall be Members.

Section 2. Voting. Subject to provisions of Section 3 of this Article, the Owners shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, the vote for such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to any Lot.

Section 3. Declarant as Sole Voting Member. Notwithstanding any other provision of this Declaration, Declarant shall be the sole voting Member of the Association until Declarant no longer owns any portion of any Lot or until Declarant waives, in writing, its right to be the sole voting member. Declarant shall have the right to elect all Directors and to cast all votes as it deems appropriate. Each Owner by acceptance of a deed shall be deemed to have released Declarant from all claims with respect to actions taken or not taken while Declarant controls the Association.

Section 4. Board of Directors. The voting Members shall elect a Board of Directors of the Association as prescribed by the Bylaws of the Association. The Board of Directors shall manage the affairs and business of the Association.

Section 5. Suspension of Voting Rights. The Association shall suspend the voting rights of a Member for any period during which any assessment hereunder against such Owner's Lot remains unpaid and for a period not to exceed sixty (60) days for any infraction of the published rules and regulations of the Association.

Section 6. Notice of Meetings of Members. Unless the Articles of Incorporation or the Bylaws otherwise provide, written notice stating the place, day and hour of the meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered no less than five (5) nor more than fifty (50) days before the date of the meeting, either personally or by mail, by or at the direction of the President or Secretary, or the officer or persons calling the meetings, to each Member entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States Mail addressed to the Member at such Member's address as it appears on the records of the Association, with postage thereon prepaid.

Section 7. Duration. No dissolution of the Association shall occur without the prior approval and consent of the City.

ARTICLE III

ASSOCIATION MAINTENANCE OBLIGATIONS

Section 1. Entrance Signs. Declarant reserves unto itself for so long as it owns any Lot, and thereafter reserves and grants to the Owners by and through the Association, the right and easement to erect and maintain a permanent entrance sign or signs on the Common Area or other areas established by permanent easements. In the event that such permanent entrance signs are installed, the Association shall perform all routine maintenance, repair, replacement, restoration, removal and demolition of the signs and elements relating thereto. Notwithstanding the foregoing, it shall be the responsibility of the Owner of any institutional or commercial Lot to maintain and repair, at its sole cost and expense, any entrance or identifying sign constructed on an institutional or commercial Lot.

Section 2. Common Area. The Association shall be the owner of the Common Area and shall timely pay all real estate taxes and assessments levied against the Common Area. Declarant hereby covenants for itself, and its successors and assigns, that it shall convey to the Association the fee title to the Common Area free and clear of all mechanic's liens or any liens or encumbrances whatsoever, except covenants, easements, conditions and restrictions whether or not of record or created by this Declaration or granted to any public authority. The transfer of title of the Common Area to the Association shall not be accomplished until the City provides written notification that construction of the Storm Water Management Facility has been completed and Declarant has been released from its duties, obligations and responsibilities under the Storm Water Management Agreement.

Section 3. Maintenance of Common Area and Storm Water Management Facility. The Association shall be responsible for maintenance of the Common Area and the Storm Water Management Facility located thereon. Such maintenance obligations shall include, but are not limited to, reconstruction, repair, replacement, inspection, grading, dredging, mowing, replacement of permitted vegetation, and removal of trash, litter and debris. No Owner shall obstruct or interfere whatever with the duties and responsibilities of the Association to perform its maintenance obligations relating to the Common Area and Storm Water Management Facility. Nothing shall be altered in, constructed in, or removed from the Common Area, except upon written consent of the Board of Directors. An Owner shall be liable to the Association for the expense of any maintenance, repair, or replacement rendered necessary by any intentional, negligent or careless act by such Owner, or by any family, guest, employee, agent, contractor or lessee of such Owner. Any such expense shall become a special assessment and lien upon the Lot of such Owner and shall become due and payable upon demand.

Section 4. Taxes Assessed Against Common Area. The Association shall be responsible for any taxes and special assessments assessed against the Common Area and the pro rata cost thereof shall become a part of the annual assessment.

Section 5. Liability Insurance. The Association shall purchase a master comprehensive public liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time. Such comprehensive public liability insurance policy shall cover the Association, its Board of Directors, any committee or organization of the Association or Board of Directors, its agents and employees, the Owners and all other persons entitled to use the Common Area. The Association shall also obtain any other insurance required by law to be maintained, including but not limited to, worker's compensation insurance, and such other insurance as the Board of Directors shall from time to time deem necessary, advisable or appropriate. Such insurance coverage shall also provide for and cover cross liability claims of one insured party against another insured party. Such insurance shall inure to the benefit of each Owner, the Association, its Board of Directors and any managing agent acting on behalf to the Association. Each Owner shall be deemed to have delegated to the Board of Directors the Owner's right to adjust with the insurance companies all losses under policies purchased by the Association. The policy shall provide that it may not be cancelled or substantially modified without prior written notice to any and all insureds named thereon, including the Association.

Section 6. Assessment for Insurance. The premiums for the insurance hereinabove described shall be paid by the Association and the pro rata cost thereof shall become a part of the annual assessment.

Section 7. Contracts and Agreements. The Board of Directors, in its sole discretion, may or may not enter into any contract, agreement, management contract or employment contract, engage the services of and discharge any manager, managing agent, independent contractor or other employee as it deems necessary. The Board of Directors, in its sole discretion, shall determine the duties and compensation of such persons so

employed.

Section 6. Access. The Association and its agents, employees or contractors shall have the right of reasonable access for ingress and egress over, across or through the Property and Common Area for the purpose of performing its inspection, maintenance, repair, replacement, restoration, removal, demolition, grading and dredging obligations as set forth herein.

ARTICLE IV **COVENANT FOR MAINTENANCE ASSESSMENTS**

Section 1. Creation of the Lien and Personal Obligation of Assessments. Declarant for the entire Property, hereby covenants, and each Owner of any portion of the Property by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association (1) an annual assessment and (2) special assessments to be established and collected as hereinafter provided. The annual and special assessments, together with late fees, interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the joint and several personal obligation of each person who was the Owner of such Lot at the time when the assessment became due.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of carrying out the general duties and powers of the Association, including, but not limited to, maintenance obligations of the Association as provided in Article III; payment of insurance premiums, real estate taxes and special assessments associated with the Common Area, fees and costs payable to a professional management firm, an accounting firm and an attorney in connection with the operation of the Association as well as the defense or prosecution of any legal action, and for other purposes specifically provided herein.

Section 3. Maximum Annual Assessment. The Board of Directors shall establish the maximum annual assessment to be assessed against each Lot, which assessment shall include a pro rata portion of the amount of real estate taxes, special assessments and insurance premiums payable by the Association. Rates for both annual and special assessments shall be determined by Lot type. The rate of assessment levied for residential Lots must be fixed at a uniform rate among all residential Lots. The rate of assessment levied for institutional and commercial Lots must be fixed at a higher rate than residential Lots. Until January 1 of the year immediately following the conveyance of the first Lot by Declarant to an Owner, the maximum annual assessment shall be \$100.00 per residential Lot; \$200.00 per institutional Lot; and \$200.00 per commercial Lot. The Board of Directors shall fix any increase in the amount of the annual assessment at least thirty (30) days in advance of the effective date of such increase. Written notice of the increase in the annual assessment, special assessments and such other assessment notices as the Board of Directors shall deem appropriate shall be sent to every Owner subject thereto.

Section 4. Reserve Fund. A portion of such annual assessment shall be set aside or otherwise allocated in a reserve fund for the purpose of providing repair, replacement, removal and demolition of the maintenance obligations required of the Association as provided in Article III. Notwithstanding the foregoing, Declarant may use any reserve funds, if established, to defray operating costs as it deems appropriate.

Section 5. Special Assessments for Capital Improvements and Operating Deficits. In addition to the annual assessments authorized above, the Association may levy a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, replacement, removal or

demolition of maintenance obligations required of the Association as provided in Article III or for operating deficits that the Association may from time to time incur, provided that any such assessment shall have the assent of a majority of the Members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 6. Date of Commencement of Annual Assessments: Due Dates. The annual assessment provided for herein shall commence as to each respective Lot on the first day of the first month following the date of conveyance of a Lot by Declarant. Upon such conveyance, the annual assessment and special assessments prorated to December 31 must be paid to the Association prior to or at the closing of sale or transfer of any Lot. The Board of Directors shall establish the due dates for all assessments. All payments shall be made on or before the due date. Both annual assessments and special assessments shall be collected by the Association, in advance, in annual installments due on January 1.

Section 7. Declarant Exempt from Assessments. Declarant shall not be liable for annual or special assessments upon Lots owned by it. Declarant is not responsible for the establishment of a budget as long as Declarant is the sole voting member of the Association. The Association and Declarant are not required to submit statements for assessments to any Owner.

Section 9. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 15% per annum or at the highest rate allowed by Iowa law, whichever is lower. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property in the manner provided for foreclosure of a mortgage, or both, and there shall be added to the amount of said assessment all cost and expenses incurred by the Association in collecting said assessments, including reasonable attorney's fees, whether or not legal action is required in connection therewith. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or by abandonment of the Owner's Lot.

Section 10. Subordination of Assessments Liens. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. The sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. Provided, however, the sale or transfer of any Lot pursuant to the foreclosure of any first mortgage on such Lot (without the necessity of joining the Association in any such foreclosure action) or any proceedings or deed in lieu thereof shall extinguish the lien of all assessments becoming due prior to the date of such sale or transfer. The failure of an Owner to pay assessments as provided in this Article III shall not constitute a default under a mortgage insured by the Federal Mortgage Agencies.

Section 11. Assessment Certificate. The Association shall, upon demand, and for a reasonable charge, furnish a certificate in a recordable form signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate from the Association regarding the status of assessments on a Lot shall be binding upon the Association as of the date of its issuance.

ARTICLE V

GENERAL PROVISIONS

Section 1. Rules and Regulations. The Association shall have the authority to amend and adopt rules and regulations governing the Common Area and such rules shall be observed and obeyed by the Owners, their guests, lessees, assigns, and licensees. Such rules after being properly adopted at a meeting duly called

for such purpose shall have the same force and effect as if contained in this Declaration.

Section 2. No Waiver. Failure of the Association or any Owner to enforce any covenant, condition or restriction of this Declaration, the Articles of Incorporation or Bylaws of the Association, or the rules and regulations adopted pursuant thereto shall not constitute a waiver of the right to enforce the same thereafter.

Section 3. Right of Enforcement. In the event of a violation, or threatened violation, of any of the covenants, conditions, and restrictions herein enumerated, Declarant, the Owners and all parties claiming under them, and the City (if it so elects by approval of its City Council) shall have the right to enforce the covenants, conditions, and restrictions contained herein, and shall be entitled to recover reasonable attorneys' fees and the costs and expenses incurred as a result thereof.

Section 4. Assignment of Declarant's Rights. Declarant shall have the right to assign all of its rights and obligations as Declarant under this Declaration to any person, corporation or other entity. The assignee of any such assignment shall be responsible for Declarant's duties and obligations under this Declaration. Declarant shall make such assignment by written instrument recorded in the Office of the Recorder of Dallas County, Iowa.

Section 5. Amendment. This Declaration may be amended or changed by an instrument recorded in the Office of the Recorder of Dallas County, Iowa, signed or approved by at least two-thirds of the then Owners; provided, however, none of the rights or duties of Declarant reserved or set out hereunder may be amended or changed without Declarant's prior written approval. Notwithstanding the foregoing, this Declaration may be amended by Declarant without approval by the other Owners so long as Declarant has any ownership interest in any Lot.

Section 6. Duration. This Declaration shall run with the land and shall be binding upon all parties claiming under them for a period of twenty-one (21) years from the date of recordation in the Office of the Recorder of Dallas County, Iowa, and shall automatically extend for successive periods of ten (10) years each unless prior to the expiration of any such ten-year period it is amended or changed in whole or in part as hereinabove provided. Invalidation of any of the covenants, conditions, and restrictions of this Declaration by judgment or decree shall in no way effect any of the provisions hereof, but the same shall remain in full force and effect.

ARTICLE VI **ANNEXATION AND REMOVAL OF LAND**

Section 1. Conveyance of Additional Common Area and Additional Responsibility Elements. Declarant shall have the right at any time to convey additional Common Area to the Association. Nothing in this Section, however, shall be deemed to be an obligation on the part of Declarant to convey additional Common Area to the Association in the future. The Association shall be obligated to accept any additional Common Area so conveyed by Declarant and to hold and maintain the additional Common Area pursuant to the terms of this Declaration.

Section 2. Subjecting Additional Land to Declaration. Declarant shall have the irrevocable right to subject the Benefited Property identified in the Storm Water Management Agreement (the "Additional Land") to the terms of this Declaration at any time in the future without the consent of the Association. The Additional Land shall be automatically subject to the applicable terms and conditions of this Declaration and owners of lots within the Additional Land shall automatically become Members of the Association in the same manner as described in this Declaration and shall be subject to the same applicable terms, conditions, duties

and assessments as described in this Declaration. Declarant shall signify the addition of land by filing an amendment to this Declaration with the Recorder of Dallas County, Iowa. No approval of the Association or any other person shall be necessary.

Section 3. Removing Land from Operation of Declaration. Declarant shall have the right now and in the future to remove any portion of the Property from the operation of this Declaration. Declarant shall signify this removal by filing an amendment to this Declaration with the Recorder of Dallas County, Iowa. No approval of the Association or any other person shall be necessary.

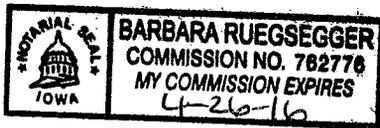
IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed as of the date first hereinabove written.

PERFECT ACRES, LLC

By: 
William B. Elson, Manager

STATE OF IOWA, COUNTY OF POLK:

This instrument was acknowledged before me on March 26, 20, 2013, by William B. Elson, Manager of Perfect Acres, LLC.



By: 
Notary Public

EXHIBIT "A"
COMMON AREA FOR STORM WATER MANAGEMENT FACILITY

A PART OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER AND THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 79 NORTH, RANGE 26 WEST OF THE FIFTH PRINCIPAL MERIDIAN, IN THE CITY OF WAUKEE, DALLAS COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 27; THENCE SOUTH 00°03'22" EAST ALONG THE EAST LINE OF THE NORTHWEST QUARTER, 1315.75 FEET TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER; THENCE SOUTH 89°33'12" WEST ALONG THE NORTH LINE OF THE SOUTH HALF OF THE NORTHWEST QUARTER, 1768.96 FEET; THENCE SOUTH 00°26'48" EAST, 64.09 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89°21'53" EAST, 186.88 FEET; THENCE EASTERLY ALONG A CURVE CONCAVE NORTHERLY WHOSE RADIUS IS 3060.00 FEET, WHOSE ARC LENGTH IS 507.48 FEET AND WHOSE CHORD BEARS NORTH 84°36'49" EAST, 506.90 FEET; THENCE SOUTHEASTERLY ALONG A CURVE CONCAVE SOUTHWESTERLY WHOSE RADIUS IS 25.00 FEET, WHOSE ARC LENGTH IS 40.85 FEET AND WHOSE CHORD BEARS SOUTH 53°19'47" EAST, 36.45 FEET; THENCE SOUTH 6°31'18" EAST, 144.53 FEET; THENCE SOUTHERLY ALONG A CURVE CONCAVE EASTERLY WHOSE RADIUS IS 835.00 FEET, WHOSE ARC LENGTH IS 162.02 FEET AND WHOSE CHORD BEARS SOUTH 12°04'49" EAST, 161.76 FEET; THENCE SOUTH 89°31'25" WEST, 771.13 FEET; THENCE NORTH 00°00'55" EAST, 280.30 FEET TO THE POINT OF BEGINNING AND CONTAINING 4.98 ACRES (216,942 SQUARE FEET).

Prepared by & Return to: Lawrence I. James, Jr., Hogan Law Office, 3101 Ingersoll Ave., Suite 103, Des Moines, IA 50312 (515) 279-9059

RECORDER'S CERTIFICATE

THE UNDERSIGNED, hereby certifies that he is the duly elected and acting Recorder of Dallas County, Iowa, and that the real estate described as:

SEE EXHIBIT "A" ATTACHED HERETO

is to be subdivided and platted as Fox Creek Estates Plat 3, an Official Plat, Waukee, Dallas County, Iowa and the same is titled in the name of Perfect Acres, L.L.C. and is free from all liens and encumbrances except the following:

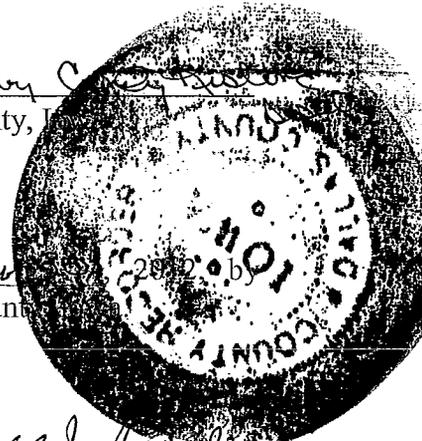
- A. Commercial Real Estate Mortgage executed by Perfect Acres, L.L.C. in favor of Two Rivers Bank & Trust recorded October 16, 2012 in Book 2012 at Page 18387.
- B. Commercial Real Estate Mortgage executed by Perfect Acres, L.L.C. in favor of Two Rivers Bank & Trust recorded October 16, 2012 in Book 2012 at Page 18388.

Dated 11/30/12, 2012.

By: *Clara Olson* County Recorder of Dallas County, Iowa

STATE OF IOWA, COUNTY OF DALLAS:

This instrument was acknowledged before me on November 29, 2012 by *Cindy Kisting*, County Recorder of Dallas County, Iowa
Deputy



By: *Topiya Walrod*
Notary Public in and for said State

EXHIBIT "A"
FOX CREEK ESTATES PLAT 3

A PART OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 79 NORTH, RANGE 26 WEST OF THE FIFTH PRINCIPAL MERIDIAN, CITY OF WAUKEE, DALLAS COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER; THENCE SOUTH 89°31'27" WEST ALONG THE SOUTH LINE OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, 373.76 FEET TO THE NORTHWEST CORNER OF OUTLOT F OF THE OUTLOTS OF THE SOUTHWEST QUARTER SECTION 27, T-79-N, R-26-W, AN OFFICIAL PLAT IN SAID CITY OF WAUKEE; THENCE SOUTH 89°34'24" WEST CONTINUING ALONG SAID SOUTH LINE, 675.05 FEET; THENCE NORTH 0°00'00" EAST, 331.68 FEET; THENCE NORTH 89°31'25" EAST, 303.01 FEET; THENCE NORTH 0°00'00" EAST, 55.79 FEET; THENCE NORTHERLY ALONG A CURVE CONCAVE WESTERLY WHOSE RADIUS IS 465.00 FEET, WHOSE ARC LENGTH IS 60.93 FEET AND WHOSE CHORD BEARS NORTH 3°45'14" WEST, 60.89 FEET; THENCE NORTH 82°29'31" EAST, 70.00 FEET; THENCE NORTH 57°56'43" EAST, 801.74 FEET TO THE EAST LINE OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER; THENCE SOUTH 0°03'22" EAST ALONG SAID EAST LINE, 877.27 FEET TO THE POINT OF BEGINNING AND CONTAINING 13.41 ACRES (584,060 SQUARE FEET).